

**CHAPTER NO. 1071**

**HOUSE BILL NO. 2410**

**By Representatives Buck, Newton, Bittle, Hargett, Jackson, Tidwell**

**Substituted for: Senate Bill No. 2296**

**By Senator Fowler**

AN ACT to amend Tennessee Code Annotated, Title 39, Chapter 17, Part 13, relative to the purchase of a pistol or sidearm.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 39, Chapter 17, Section 1316, is amended by deleting the existing language in its entirety and substituting instead the following:

(a)

(1) Any person appropriately licensed by the Federal government may stock and sell firearms to persons desiring them; however, sales to persons who are addicted to alcohol and sales to persons ineligible to receive them under 18 U.S.C. § 922 are prohibited.

(2) The provisions of this subsection prohibiting the sale of a firearm to a person convicted of a felony shall not apply if:

(A) Such person was pardoned for the offense;

(B) The conviction has been expunged or set aside; or

(C) The person's civil rights have been restored pursuant to Tennessee Code Annotated, Title 40, Chapter 29; and

(D) The person is not prohibited from possessing a firearm by the provisions of § 39-17-1307.

(b)(1) As used in this section, "firearm" shall have the meaning as defined in § 39-11-106, including handguns, long guns, and all other weapons which meet the definition except "antique firearms" as defined in 18 U.S.C. §921.

(2) As used in this section, "gun dealer" means a person engaged in the business, as defined in 18 U.S.C. §921, of selling, leasing, or otherwise transferring a firearm, whether the person is a retail dealer, pawnbroker, otherwise.

(c) Except with respect to transactions between persons licensed as dealers under 18 U.S.C. §923, a gun dealer shall comply with the following before a firearm is delivered to a purchaser:

(1) The purchaser shall present to the dealer current identification meeting the requirements of subsection (f) of this section.

(2) The gun dealer shall complete a firearms transaction record as required by 18 U.S.C. §§921 to 929, and obtain the signature of the purchaser on the record.

(3) The gun dealer shall obtain the thumb prints of the purchaser on the firearms transaction thumbprint form and attach the form to the gun dealer's copy of the firearms transaction record to be filed with that copy.

(4) The gun dealer shall request by telephone that the Tennessee Bureau of Investigation conduct a criminal history record check on the purchaser and shall provide the following information to the department:

(A) The federal firearms license number of the gun dealer;

(B) The business name of the gun dealer;

(C) The place of transfer;

(D) The name of the person making the transfer;

(E) The make, model, caliber and manufacturer's number of the firearm being transferred;

(F) The name, gender, race, and date of birth of the purchaser;

(G) The social security number of the purchaser, if one has been assigned; and

(H) The type, issuer and identification number of the identification presented by the purchaser.

(5) The gun dealer shall receive a unique approval number for the transfer from the department and record the approval number on the firearms transaction record and on the firearms transaction thumbprint form.

(6) The gun dealer may destroy the firearms transaction thumbprint form one year after the completion of the firearms transaction thumbprint form.

(d) Upon receipt of a request of the gun dealer for a criminal history record check, the Tennessee Bureau of Investigation shall immediately, during the gun dealer's telephone call or by return call:

(1) Determine, from criminal records and other information available to it, whether the purchaser is disqualified under the provisions of subsection (a)(1) of this section from completing the purchase; and

(2) Notify the dealer when a purchaser is disqualified from completing the transfer or provide the dealer with a unique approval number indicating that the purchaser is qualified to complete the transfer.

(e)(1) The Tennessee Bureau of Investigation may charge a reasonable fee, not to exceed ten (10) dollars, for conducting background checks and other costs incurred under the provisions of this section, and shall be empowered to bill gun dealers for checks run.

(2) Funds collected by the Tennessee Bureau of Investigation pursuant to this section shall be deposited in a continuing deferred interest-bearing revenue fund that is hereby created in the State Treasury. This fund will not revert to the General Fund on June 30 of any year. This fund shall be used to offset the costs associated with conducting background checks. By February 1, of each year the Tennessee Bureau of Investigation shall report to the House and Senate Judiciary Committees the amount of money collected pursuant to this section in excess of the of the costs associated with conducting background checks as required by this section. Such excess money shall be appropriated by the General Assembly to the Tennessee Bureau of Investigation for such other law enforcement related purposes as it deems appropriate and necessary.

(f)(1) Identification required of the purchaser under subsection (2) of this section shall include one piece of current, valid identification bearing a photograph and the date of birth of the purchaser that:

(A) Is issued under the authority of the United States government, a state, a political subdivision of a state, a foreign government, a political subdivision of a foreign government, an international governmental organization or an international quasi-governmental organization; and

(B) Is intended to be used for identification of an individual or is commonly accepted for the purpose of identification of an individual.

(2) If the identification presented by the purchaser under paragraph (a) of this subsection does not include the current address of the purchaser, the purchaser shall present a second piece of current identification that contains the current address of the purchaser.

(g) The Tennessee Bureau of Investigation may require that the dealer verify the identification of the purchaser if that identity is in question by sending the thumbprints of the purchaser to the department.

(h) The Tennessee Bureau of Investigation shall establish a telephone number that shall be operational seven days a week between the hours of 8 a.m. and 10 p.m. Central Standard Time, except Christmas Day, Thanksgiving Day, and Independence Day, for the purpose of responding to inquiries from dealers for a criminal history record check under this section.

(i) No public employee, official or agency shall be held criminally or civilly liable for performing the investigations required by this section provided the employee, official or agency acts in good faith and without malice.

(j) Upon the determination that receipt of a firearm by a particular individual would not violate this section, and after the issuance of a unique identifying number for the transaction, the Tennessee Bureau of Investigation shall destroy all records (except the unique identifying number and the date that it was assigned) associating a particular individual with a particular purchase of firearms.

(k) A law enforcement agency may inspect the records of a gun dealer relating to transfers of firearms in the course of a reasonable inquiry during a criminal investigation or under the authority of a properly authorized subpoena or search warrant.

(l) The Tennessee Bureau of Investigation shall publish the firearms transaction thumbprint form and shall furnish the form to gun dealers on application at cost.

(m)(1) The background check does not apply to transactions between licensed importers, licensed manufacturers, licensed dealers, or licensed collectors who meet the requirements of subsection (b) and certify prior to the transaction the legal and licensed status of both parties. The burden shall fall upon the transferor to determine the legality of the transaction in progress.

(2) The background check does not apply to transactions or transfers between a licensed importer, licensed manufacturer, or licensed dealer and a bona fide law enforcement agency or such agency's personnel. However, all other provisions and requirements of subsection (b) must be observed. The burden of proof of the legality of such transactions or transfers shall rest upon the transferor.

(3) The background check does not apply to any person eligible to purchase a firearm as set out above who wishes to make an occasional sale of a used or second-hand firearm legally purchased by the seller.

(n) The Director of the Tennessee Bureau of Investigation is hereby authorized to make and issue all rules and regulations necessary to carry out the provisions of this section.

SECTION 2. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severed.

SECTION 3. This Act shall take effect November 1, 1998, the public welfare requiring it.

PASSED: May 1, 1998

  
JIMMY RAIFEH, SPEAKER  
HOUSE OF REPRESENTATIVES

  
JOHN S. WILDER  
SPEAKER OF THE SENATE

APPROVED this 19<sup>th</sup> day of May 1998

  
DON SUNDQUIST, GOVERNOR